

REMARKS

Upon entry of this paper, claim 9 has been amended, claims 1-8, 15, 20 have been canceled, and no claims have been added as new claims. Thus, claims 9-14, and 16-19 are presently pending in this application. No new matter has been added. The cancellation of claims 1-8 and 20 in the present amendment should in no way be construed to be an acquiescence to any of the rejections stated. Claims 1-8 and 20 are being canceled solely to expedite the prosecution of the present application. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent patent application.

Interview Summary

Applicant thanks the Examiner for the telephone interview of December 12, 2005. All outstanding objections and rejections stated in the Final Office Action were discussed. The Examiner agreed that the Claim Objections and the Claim Rejections under relating to §112 are adequately addressed with the claim amendments, and remarks, submitted herewith. Furthermore, it was agreed that the §102 rejection was moot based on the cancellation of claims 1-8 herewith.

The §103 rejection was additionally discussed and it was agreed that the combination of Martin with Snazuk does not result in the claimed garage door opener of the present amended claims because the spring of Snazuk is of a different type, applying a different force in an opposite direction from the claimed spring, and for a different purpose with a different result. In the context of the discussion of this rejection, it was noted that the remaining independent claim is amended to indicate the “spring” of the originally claimed spring and slip-joint combination is clarified to be an “extension” spring, as Applicant has described in the specification and remarked in a prior telephone interview and Reply. Accordingly, the characterization of the spring being an extension spring should have been adequately considered prior to this point of the prosecution.

However, should there be any remaining issues regarding the allowability of this application, the Examiner agreed to telephone Applicant's Representative to discuss such issues, prior to issuance of any Advisory Action.

Claim Objections

Claims 3-5 and 8 were objected to for the reasons provided in the Office Action. Claims 3-5 and 8 have been canceled upon entry of this amendment, therefore, said claims no longer stand objected.

Claims 9 and 20 were objected to because of grammatically awkward language. The word "outward" has been removed upon entry of this amendment to simplify the language. Claim 20 has been canceled.

Claim Rejections – 35 USC § 112

Claims 9-14 and 16-20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to address each of these issues.

Specifically, Applicant has amended the claims to indicate that "during operation" means "during operation of the door opener". Amendments have been made removing a portion of the phrase "causes the push bar to push the outwardly swinging door" to read "causes the push bar to push on the outwardly swinging door".

Applicant intends by the preamble "the door opener comprising" to claim the door opener subcombination, and not the door opener in combination with the door. Some amendments have been made to the claims to reduce the recitation of the door. However, references to the outwardly swinging door in the claim are provided to give context as to how the door opener is constructed and oriented to open a door with a vertically aligned hinge/pivot, rather than the more conventional horizontal top hinge, or upwardly sliding garage door.

With regard to claim 14, and the provision of “at least one adjustment mechanism”, said adjustment mechanism is provided in addition to the automatic adjustment mechanism that adjusts a length of the pushbar during operation of the door opener. Specifically, FIGS. 6, 7, and 8 illustrate various embodiments of the “adjustment mechanism 36”, while the “slip joint coupled with a spring for automatically adjusting a length of the at least one push bar” refers to the slip joint 40 and spring 38 of the device in accordance with one embodiment of automatic adjustment mechanism.

Upon entry of this amendment, claim 20 has been canceled, thus obviating the rejection of the “means” language.

Claim Rejections – 35 USC § 102

Claims 1, 6, and 7

Claims 1 and 6 were rejected under 35 U.S.C. 102(b) as being anticipated by Romney. Claims 1 and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by Snazuk.

Claims 1, 6, and 7, upon entry of this amendment, have been canceled. As such, said claims no longer stand rejected.

Claim Rejections – 35 USC § 103

Claims 9-14 and 16-20

Claims 9-14 and 16-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Snazuk.

Upon entry of this amendment, independent claims 9 and 20 have been amended to further clarify that the spring disposed with the slip joint on the push bar is “an extension spring for automatically adjusting a length of the at least one push bar during operation of the door

opener” (see amended claims 9 and 20). As is clear from the description, and as Applicant has indicated during prosecution, the spring adjusts a length of the push bar during the closing operation, to enable the door opener to snugly close. Specifically, in the specification at page 13, line 25 to page 14, line 5, it states that,

“[t]o allow for the trolley 28 to continue movement after the door has closed, the slip joint 40 allows the push bar connector 30a and 30b to expand with the spring 38 providing an opposing spring force. The push bar connector 30a and 30b begins to expand or lengthen, causing the slip joint 40 to slide as the first fastener 70 and the second fastener 72 move within the first slot 74 and the second slot 76. Such movement continues until the trolley 28 stops. The use of the slip joint 40 allows a snug closing of the first door 31 or second door 32, in that the garage door opener mechanism 20 does not have to be adjusted using the adjustment mechanism 36 to result in the trolley 28 stopping at the exact position where the first door 31 and the second door 32 are in a closed position. Some play is allowed, and such things as the first door 31 or the second door 32 being slightly warped or having some minor obstruction such as a rock or other hindrance will still result in the first door 31 and the second door 32 being held tightly against the door frame 33 when in a closed position because of the spring force provided by the spring 38 on the slip joint 40.”

Among other items, but also as confirmed in the Office Action, Martin is silent concerning a slip joint, or any form of mechanism, for automatically adjusting a length of the at least one push bar during operation of the door opener. Snazuk discloses a helical compression spring disposed within a tubular member. The combination of Martin with Snazuk fails to disclose all characteristics of the claimed invention.

Specifically, the spring of Snazuk is a compression spring that actually generates the push action of the push bar. However, such push action by the spring in Snazuk is opposite to the operation and intended function of the slip joint and extension spring of the claimed invention. As described in the specification, and above, the extension spring applies a force opposite to the extension of the push bar. The spring in Snazuk applies a force in compliance with the extension of the tubular member.

As such, the combination of Martin and Snazuk fails to make the claimed invention obvious. Reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicant courteously solicits allowance of the claims in the form of a Notice of Allowance. Each of Applicant's claims contains characteristics that are neither disclosed nor suggested by the cited documents. For the reasons detailed herein, Applicant respectfully requests that all rejections be reconsidered and withdrawn. This application is in condition for allowance, and notice of the same is earnestly solicited. Should the examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the examiner is invited to contact Applicant's representative by telephone at the number indicated below.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080 indicating item number JHD-001. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: December 13, 2005

Respectfully submitted,

By 

Sean D. Detweiler

Registration No.: 42,482

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant